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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA

4 v.

19 Cr. 709 (JFK)

5 ROBERT WILLIAM HALL,

6 Defendant.

7 -----x

8 July 7, 2020

9 11:00 a.m.

10 Before:

11 HON. JOHN F. KEENAN

District Judge

12
13 APPEARANCES (via telephone)

14 AUDREY STRAUSS

Acting United States Attorney for the
Southern District of New York

15 BY: REBECCA DELL

16 Assistant United States Attorney

17 CHRISTOPHER FLOOD

Attorney for Defendant

18 ALSO PRESENT: Margaret Girard, F.B.I.

19 Seth Rothman, U.S. Pretrial Services

K767HALS

1 THE COURT: Starting with the defense, could you
2 please enter your appearance verbally.

3 MR. FLOOD: Yes, your Honor, good morning. This is
4 Christopher Flood, Federal Defenders of New York. I have on
5 the line Robert Hall.

6 THE COURT: Good morning, Mr. Flood. Good morning,
7 Mr. Hall.

8 And who is there for the government, please?

9 MS. DELL: Rebecca Dell on behalf of the government.

10 THE COURT: All right. And do we have a court
11 reporter?

12 COURT REPORTER: Yes, your Honor.

13 THE COURT: When anybody speaks during this
14 proceeding, would you be sure to identify yourself as to who is
15 the speaker so that the court reporter can appropriately get
16 this down on the record who else is on the phone, please?

17 MR. FLOOD: Seth Rothman from Pretrial Services,
18 currently supervising Mr. Hall.

19 THE COURT: Thank you. And my law clerk is on; is
20 that right?

21 LAW CLERK: Yes, your Honor.

22 THE COURT: That's Luke Ryan.

23 And is my deputy clerk on who runs the courtroom?

24 DEPUTY COURT CLERK: Yes.

25 THE COURT: That's William Ryan, correct?

K767HALS

1 DEPUTY COURT CLERK: Yes.

2 THE COURT: All right. Is there anyone else on the
3 phone?

4 MS. DOHERTY: Yes, your Honor, Jill Doherty. I'm the
5 intern with SDNY.

6 THE COURT: I'm sorry, I didn't hear you.

7 MS. DOHERTY: I'm an intern for Rebecca.

8 THE COURT: OK. And is there anyone from the public
9 here?

10 MS. GIRARD: Your Honor, Special Agent Margaret Girard
11 from the F.B.I.

12 THE COURT: OK. And anyone else?

13 All right. Now, first of all, I am addressing
14 Mr. Hall and Mr. Flood.

15 Mr. Hall, as I understand it, Mr. Flood explained to
16 you, Mr. Hall, that you have an absolute right to appear before
17 a judge in a courtroom in the Southern District courthouse for
18 the sentence, and we're doing this over the phone. Do you
19 understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: And do you understand that you are waiving
22 your right to be present before a judge physically in person in
23 court? Do you understand you're waiving this right?

24 THE DEFENDANT: Yes.

25 THE COURT: And the reason we're doing this is because

K767HALS

1 of the emergency because of the COVID virus. And we're
2 proceeding by telephone because it's not feasible to work up a
3 video conference so we're doing it by telephone. Are you
4 willing to do this by telephone?

5 THE DEFENDANT: Yes, yes.

6 THE COURT: All right. And did Mr. Flood advise you
7 of all of your rights concerning this?

8 THE DEFENDANT: Yes.

9 THE COURT: And, Mr. Flood, do you waive my presence?
10 And where physically are you and Mr. Hall now?

11 MR. FLOOD: This is Chris Flood. Yes, we do waive. I
12 am present in my own home, and Mr. Hall is present in his home.
13 We are connected by cell phone and then we dialed in together.

14 THE COURT: All right. And you advised him of his
15 rights; is that correct?

16 MR. FLOOD: Yes, your Honor, I have.

17 THE COURT: And you think it's a good idea for him to
18 waive them and to proceed with the sentencing; is that correct?

19 MR. FLOOD: Yes, sir.

20 THE COURT: All right. Does anybody have anything to
21 say before I ask Mr. Flood to speak on behalf of the defendant?
22 Does anybody have anything that they wish to say?

23 All right, hearing nothing, then, Mr. Flood, I will
24 hear you on sentence.

25 MR. FLOOD: Thank you, your Honor. This is

K767HALS

1 Christopher Flood.

2 THE COURT: I should ask you first, of course, have
3 you read the probation report?

4 MR. FLOOD: Yes, your Honor.

5 THE COURT: And have you gone over it with Mr. Hall,
6 and has it been read to him?

7 MR. FLOOD: Yes, your Honor.

8 THE COURT: All right. Do you have any objections to
9 the report?

10 MR. FLOOD: No.

11 THE COURT: You do?

12 MR. FLOOD: No. No, sir, we do not.

13 THE COURT: No objections to the probation report.

14 All right. I will hear you on sentence.

15 MR. FLOOD: Thank you, your Honor. And I will be
16 brief as I can.

17 Mr. Hall, as the Court knows well from the times he
18 has been before your Honor, and of course from the presentence
19 report and the submissions, has a long history of profound
20 mental illness, and the offense conduct here really cannot be
21 separated from that history and from the relapse of substance
22 abuse that he was deep into at the time that he committed this
23 offense. That is, it has been a life-long struggle nearly with
24 regard to his mental health, but that is the deep past, and
25 what we have now with Mr. Hall is really a success story.

K767HALS

1 I know one of our exhibits to our submission is the
2 letter from Ms. Julia Owens from Mr. Hall's FACT team. And
3 FACT stands for Forensic Assertive Community Treatment team.
4 What that is is really a wrap-around community-based services,
5 both mental health and also intensive outpatient drug
6 treatment.

7 And I can only describe Ms. Owens' letter to the Court
8 as glowing. She talks about how the team is elated to have
9 Mr. Hall back on their roster, and describes Mr. Hall as being
10 an active and dedicated participant in his own care and
11 recovery. And that is all the difference here, because all of
12 the sentencing factors under 3553(a) would point to a sentence
13 that suggests -- that builds on Mr. Hall's mental health well
14 being.

15 And one thing that we know about his experience at the
16 MDC while he was detained is it was an absolutely terrifying
17 experience during the COVID-19 outbreak, but also his mental
18 health substantially degraded because it was not being treated
19 effectively. The medication was not the same; it wasn't at the
20 appropriate level; and Mr. Hall really was isolated and
21 suffering quite a bit while in custody. And then that
22 contrasts so clearly with how he has done since he has been out
23 and at home: Compliant with the terms of his pretrial
24 supervision, deeply engaged with his FACT team, his mental
25 health and drug treatment, and really building on the

K767HALS

1 relationship with the strongest support he has in his life,
2 which is his mother. The good news there is that she is
3 currently applying to get them a new apartment with more space
4 so that can be basically a permanent solution for Mr. Hall.

5 So rather than incarcerating him -- which would serve
6 very little purpose, especially given the attenuation of any
7 deterrent effect because of his mental health and substance
8 abuse at the time of the offense -- that really the most
9 appropriate sentence here is to continue him in that productive
10 environment that he is now, because that's is going to be what
11 helps with the safety of the community, is what is going to
12 help Mr. Hall come to grips with his life-long struggle --
13 which also I might add -- and I will close with this -- that
14 Ms. Owens describes Mr. Hall's recovery in very glowing terms
15 but also points out that it is a delicate process and one that
16 is to be deeply and sensitively handled by a committed team
17 that actually now does surround Mr. Hall. And these are
18 services that are in excess of what we normally see available
19 in federal cases. It's just much more rich and detailed and
20 compassionate and sensitive to Mr. Hall's condition than any
21 services that I have seen federal courts be able to deploy.

22 So, I really urge the Court to impose a sentence of
23 time served, with supervision of I would guess three years, and
24 with the special condition that he comply with the directives
25 and treatment plan of his FACT team.

K767HALS

1 MR. FLOOD: Thank you, your Honor.

2 THE COURT: All right. Government, do you have
3 anything you wish to say?

4 MS. DELL: Not much, your Honor. We rest on our
5 submission, but just also to echo what Mr. Flood was saying, in
6 light of the progress that Mr. Hall has made after being
7 released from prison, as noted in our submission we recommend a
8 below guideline sentence.

9 THE COURT: All right. I ask you, Mr. Hall, is there
10 anything you wish to say?

11 THE DEFENDANT: I had a bad experience going through
12 my mental health situation and being duly diagnosed. I know I
13 have a mental disease, I have a mental illness, and I'm trying
14 to address the mental health situation appropriately without
15 any more negativity, because I don't need negativity in my
16 life. I'm trying to get on with my life, and I want to change
17 my lifestyle of living. I don't want to have wool over my
18 eyes; I want to see the light. Do you see what I'm saying? I
19 got to see the light at the end of the tunnel. I can't keep
20 living, you know, with shades. I can't keep having these
21 problems come down on me. I'm trying to bring myself up in the
22 world.

23 And I apologize for my inappropriate misbehaving,
24 negative approach, any bad situation that I put myself in, and
25 I apologize.

K767HALS

1 THE COURT: All right. Thank you, Mr. Hall. I hope
2 that what you said is true, and I hope you do straighten out.

3 All right. I would observe before I sentence you that
4 the presentence report obviously I have read. It was dated
5 April 10th of this year. I have also read carefully the
6 defense submission of July 1, 2020, as well as the government's
7 submission of July 1, 2020 and the defense submission.

8 As Mr. Flood indicated, he seeks a sentence of time
9 served. In the defense submission there is a report from Dr.
10 Edward Fernandez which details the psychiatric problems and
11 background of the defendant.

12 I also received together with the defendant's
13 submission a letter from his mother and a letter from The
14 Bridge, a community treatment organization, and a letter from
15 Rochelle Veasley, the director of social work with the Federal
16 Defenders Office. And I received the government's letter
17 recommending a below guideline sentence on July 1, 2020. And
18 in Mr. Flood's letter of July 1 he seeks what he requested,
19 which is a sentence of time served with certain restrictions on
20 it.

21 Before the Court is a 52 year old American citizen,
22 and he has sadly 21 prior convictions. He has had a history of
23 psychiatric problems and drug abuse going back to when he was
24 age 13, and he is now, as I said, 52.

25 The case here involves the attempted theft from a bank

K767HALS

1 branch in the Bronx by breaking into the branch by means of
2 burglary. The probation department in the probation report
3 recommends a sentence of time served. The total offense level
4 here is 10, the Criminal History Category is not V, as the
5 parties agreed, rather it's VI, and the scope under the
6 guidelines, therefore, is two years to two and a half years,
7 which is 24 to 30 months.

8 I recognize, of course, that the guidelines are
9 advisory and they're not binding upon me. And I have carefully
10 considered 18 United States Code, Section 3553(a) and all its
11 subdivisions and all its requirements.

12 It is adjudged that the defendant be committed to the
13 custody of the Attorney General of the United States for the
14 period that he has already served. In other words, the
15 sentence is time served. He is to serve a period of three
16 years' supervised release, and the supervised release is to be
17 under the standard and mandatory conditions of supervised
18 release, plus there are certain special conditions that I'm
19 setting.

20 He is to be restricted to his residence, which is with
21 his mother, every day for the hours directed by the probation
22 officer. I am not setting the hours; I'm letting the probation
23 officer do that. He is restricted to his residence at all
24 times -- that is, the mother's apartment -- except for
25 employment, education, religious services, medical treatment,

K767HALS

1 substance abuse treatment or mental health treatment, any
2 visits with his attorney, if any court appearances are
3 necessary, or any court-ordered obligations or any other
4 activities that are approved ahead of time by the probation
5 department. He is restricted to the residence except for
6 medical necessities and for those special things that I
7 indicated. He is to submit his person, his property, his
8 residence, his vehicle, if any, his papers, his computer, and
9 any other electronic communications, to search by the
10 probation, without any needs for a warrant, provided that the
11 search is conducted in a reasonable fashion and on reasonable
12 suspicion of a violation of the condition of supervision or
13 unlawful conduct by Mr. Hall. Failure to submit to search can
14 be grounds for revocation of release.

15 What that means is if you don't abide by the
16 conditions, Mr. Hall, I can have you sent to prison. So, you
17 have to abide by these conditions.

18 Also, the defendant is to participate in any
19 outpatient treatment approved by probation, which includes
20 testing to determine whether he has gone back to using drugs or
21 alcohol. If you or your mother has the ability to pay, you
22 have to pay for that treatment. If your mother or you don't
23 have the ability to pay, I waive the payment.

24 You are to participate in an outpatient mental health
25 and drug treatment program approved by probation. You are to

K767HALS

1 continue to take any prescribed medications which are
2 instructed by the healthcare provider. Again, you are to
3 contribute to the cost of these medications and services based
4 on your ability to pay or the ability of a third-party to pay.

5 You are to provide probation with access to any
6 requested financial information, and you are not to incur any
7 new credit charges or lines of credit. A \$100 special
8 assessment is ordered as is required by law.

9 You are to make restitution, as you've agreed, in the
10 amount of \$4213.46, and payments can be forwarded to the
11 Popular Bank at 641 East Tremont Avenue in the Bronx. Payments
12 are to be made by either certified check, money order or wire
13 transfer -- not just a simple bank check -- or by cash or
14 credit card. But if it's by check, it has to be a certified
15 check, and the check should be delivered or hand delivered
16 or -- or mailed, rather -- to the United States Courthouse at
17 500 Pearl Street, New York, New York 10007, attention to the
18 cashier, and that's required by 18 United States Code 3611 Make
19 sure your put your name and the docket number of the case on
20 the check or on the money order, whatever it is you're using to
21 pay.

22 I am letting you and probation figure out the schedule
23 of the payments. I don't think forfeiture applies in the case.
24 Am I correct?

25 MS. DELL: Yes, your Honor. This is Rebecca Dell,

K767HALS

1 that's correct.

2 THE COURT: OK. And I advise both sides of their
3 right to appeal. That's the sentence of the Court.

4 Now, Mr. Hall, good luck to you.

5 THE DEFENDANT: Thank you.

6 THE COURT: For heaven's sake, stay out of trouble,
7 will you, please?

8 THE DEFENDANT: Heaven help us all. God bless. Thank
9 you.

10 THE COURT: Your mother is a very decent person and
11 has taken good care of you. Don't let her down.

12 THE DEFENDANT: No, no, no.

13 THE COURT: All right. That's the sentence of the
14 Court. And, Mr. Hall, you are very fortunate you had as good a
15 lawyer as Mr. Flood. He really worked hard for you in the
16 case. With your record, he really went to bat for you, and he
17 did a good job for you.

18 THE DEFENDANT: OK.

19 THE COURT: And you should be very thankful to him.
20 That's the sentence of the Court. Thank you all for
21 appearing by phone. I appreciate it.

22 Is there anything else from anyone?

23 MR. FLOOD: Your Honor, this is Christopher Flood.
24 No, just our thanks.

25 THE COURT: My pleasure. Thank you. Thanks to the

K767HALS

1 government. And to the court reporter particularly, thank you
2 for handling this in this difficult fashion. Thank you all.
3 Goodbye now.

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